

GR. 1839

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House resolution  
Conf. Pam. #530

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Conf  
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#530

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HOUSE RES. No —.]

[ADJ. SES. 1864.

Introduced by Mr. AVERA, of Johnston.

W. W. Holden, Printer to the State.

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**RESOLUTIONS CONDEMNING THE SUSPENSION  
OF THE PRIVILEGES OF THE WRIT OF HABEAS  
CORPUS.**

WHEREAS, It is declared in the Constitution of the Confederate States, Art. 1st, Sec. 9th, part of paragraphs 15, 16, 3 “That the right of the people to be secure in their persons, 4 houses, papers and effects against unreasonable searches 5 and seizures shall not be violated, and that no warrants 6 shall issue but upon probable cause supported by oath or 7 affirmation, and particularly describing the place to be 8 searched and the person or thing to be seized, and no person 9 shall be held to answer for a capital or otherwise infamous 10 crime, unless on a presentment or indictment of a 11 grand jury, except in cases arising in the land or naval 12 forces or in the militia when in actual service in time of 13 war, nor be deprived of life, liberty or property without 14 due process of law.”

And whereas, it is declared in the Constitution of North-Carolina, Bill of Rights, Secs. 7, 8, 9, 11, 12, 13, “that in all criminal prosecutions every man has a right to be informed of the accusations against him, and to confront the accusers and witnesses with other testimony. That no free man shall be put to answer any criminal charge but by indictment, presentment or impeachment, nor shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. That general warrants whereby any officer or messenger may be commanded to search suspected places without evidence of

26 the facts committed or to seize any person or persons not  
27 named whose offence is not particularly described and  
28 supported by evidence, are dangerous to liberty and ought  
29 not to be granted. That no freeman ought to be taken,  
30 imprisoned or disseized of his freehold liberties or privi-  
31 leges, nor outlawed, or exiled, or in any manner destroy-  
32 ed or deprived of life, liberty or property, but by the law  
33 of the land. That every freeman restrained of his liber-  
34 ties is entitled to a remedy to enquire into the lawfulness  
35 thereof and remove the same if unlawful, and that such  
36 remedy ought not to be denied or delayed."

37 And whereas, the writ of *habeas corpus*, the great  
38 Magna Charta of the people of the Confederate States,  
39 distinguishing a free Repnblican constitutional govern-  
40 ment from an absolute despotism, was on the 15th day of  
41 February last, by the Congress of the Confederate States,  
42 so suspended as to deprive persons arrested or detained  
43 by order of the President, Secretary of War or General  
44 officer commanding the Trans-Mississippi Department of  
45 the privileges of said writ.

46 And whereas, one clause of said act provides that the  
47 President shall cause proper officers to investigate the  
48 cases of all persons so arrested—thus placing in his power  
49 to confer on military tribnnals (appointed by and respon-  
50 sible only to him) to determine life and liberties of the  
51 citizen instead of leaving it where the Constitution and  
52 laws have placed it, to the proper judicial tribunals of the  
53 country, which, in the opinion of this Legislature is a sub-  
54 version of the spirit of the Constitution both of the Con-  
55 federate States and the State of North-Carolina. And  
56 whereas, the preservation and perpetuation of constitu-  
57 tional liberty is the only object our people and heroic sol-  
58 diers have in our present struggle with the federal gov-  
59 ernment: Therefore,

*Resolved*, That in the opinion of this General Assembly  
2 our salvation and final success in achieving our indepen-  
3 dence depends on nothing so much as our unflinching de-  
4 votion and preservation of constitutional liberty.

*Resolved further*, That the act of Congress suspending the  
2 privileges of the writ o<sup>r</sup> *habeas corpus* is dangerous to the  
3 liberties of the people, tends to make the civil power sub-  
4 ordinate to the military and establish a precedent of a  
5 dangerous and ruinous character and should be repealed  
6 at an early day.

*Resolved further*, That so long as this Act shall remain up-  
2 on the Statute book and is the law of the land, it will be  
3 respected and supported in North-Carolina unless declar-  
4 ed unconstitutional by the Supreme Court, our highest  
5 judicial tribunal. Yet this General Assembly would prove  
6 recreant to its trust as guardians of the rights and liber-  
7 ties of the people, should it fail to enter a protest against  
8 any encroachment upon the personal liberties of the hum-  
9 blest citizen of North-Carolina, and do therefore demand  
10 the repeal of said Act.

*Resolved further*, That our Senators in Congress be instruc-  
2 ted and our Representatives be requested to make an ear-  
3 nest effort to secure the ear'y repeal of said Act.

*Resolved further*, That His Excellency Gov. Vance is here-  
2 by instructed and directed to forwatd a copy of these res-  
3 olutions to President Davis and to the Senators and Rep-  
4 resentatives in Congress from North-Carolina.

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Pam  
#53  
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